

## REMARKS

This Response is to the non-final Office Action dated February 3, 2009. Claims 1 to 61 are pending, Claims 27 to 61 have been withdrawn from consideration. A listing of the claims is provided for convenience. Applicants believe that no fee is due in connection with this Response, however, please charge Deposit Account No. 02-1818 for any fees deemed owed.

In the Office Action, Claims 1 to 4, 6, 7, 10, 12, 14, 16, 17 to 19 and 24 to 26 were rejected under 35 U.S.C. §103(a) as being obvious in view of U.S. Patent No. 5,944,684 to Roberts ("*Roberts*") in view of U.S. Patent No. 4,229,299 to Savitz et al. ("*Savitz*"). Claims 8 and 9 were rejected under 35 U.S.C. §103(a) as being obvious in view of *Roberts*, *Savitz* and U.S. published application 2003/0000876 to Kawaguchi ("*Kawaguchi*"). Claim 15 was rejected under 35 U.S.C. §103(a) as being obvious in view of *Roberts*, *Savitz* and U.S. Patent No. 4,702,829 to Polaschegg et al. ("*Polaschegg*"). Claims 20 and 21 were rejected under 35 U.S.C. §103(a) as being obvious in view of *Roberts*, *Savitz* and U.S. Patent No. 5,685,989 to Krivitski et al. ("*Krivitski*"). Claims 22 and 23 were rejected under 35 U.S.C. §103(a) as being obvious in view of *Roberts*, *Savitz* and U.S. published application 2005/0102028 to Laroche et al. ("*Laroche*").

The "Response to Arguments" section of the Office Action at Page 2 agrees with Applicants Remarks in the last Response filed November 6, 2008 that *Roberts* does not anticipate Claim 1. In particular, Page 4 of the Office Action agrees that *Roberts* does not teach a medical fluid regenerator or a second pump located in a second fluid loop, but asserts that *Savitz* teaches a second fluid loop including a pump 116 and a medical fluid regenerator 123 as allegedly shown in Fig. 1 and taught at column 5, lines 40 to 47 of *Savitz*.

Applicants respectfully disagree that *Savitz* teaches what it is alleged to teach and ask the Patent Office to re-review *Savitz* in light of the following comments. Fig. 1 of *Savitz* is reproduced below for ease of illustration.

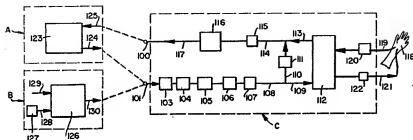


FIG. 1

*Savitz* discloses at column 5, line 25 to column 6, line 5, the following. There are three main portions “A”, “B” and “C” to the system as shown above. Portion “C” is the hemodialysis portion having pump 116 and a dialyzer 112. Portion “C” is used regardless of whether Portion “A” or Portion “B” is used, however only one of Portion “A” or Portion “B” is used in a given treatment (column 6, lines 5 to 8). That is, Portions “A” and “B” are alternative dialysis fluid supply embodiments (column 5, lines 30 to 32). Portion “A” is a batch supply, while Portion “B” is an on-line supply, which makes the dialysis solution as it is being used from continuous water line 129, and not beforehand as with batch Portion “A”. Because the online supply portion “B” can make as such dialysis fluid as needed (until concentrate 127 runs out), the system using supply Portion “B” dumps spent dialysis fluid or effluent to drain. That is, the dialysis fluid makes only a single pass through dialyzer 112 (column 5, lines 61 to 64).

With batch supply portion “A”, the dialysis solution volume is limited, so it must be re-used or recirculated past the dialyzer 112 in a closed loop (column 5, lines 39 to 47) to achieve better patient clearance. But there is no disclosure that *Savitz* is regenerating the fluid in dialysate container 123. Instead, it appears that the batch dialysate is simply being reused until there is no osmotic gradient left between the dialysate and the patient’s blood. For this reason alone, *Savitz* does not cure the deficiencies of *Roberts*.


As noted in the Office Action, the claimed system also includes a pump in the second medical fluid regenerator loop. *Savitz*, on the other hand, appears to rely on pump 116 to drive dialysis fluid through both the hemodialysis portion “C” and the batch supply portion “A”. There is no disclosure of a pump with supply portion “A” taught at column 5, lines 40 to 47 cited

in the Office Action. For this additional reason, the combination of *Roberts* and *Savitz* does not meet the claims.

The inability of *Roberts* and *Savitz* to teach Claim 1 renders moot whether or not: (i) *Roberts* additionally teaches dependent Claims 2 to 7, 10 to 14, 16 to 19 and 24 to 26; (ii) *Roberts*, *Savitz* and *Krivitski* teach Claims 8 and 9; (iii) *Roberts*, *Savitz* and *Polaschegg* teach Claim 15; (iv) *Roberts*, *Savitz* and *Krivitski* teach claims 20 and 21; and (v) *Roberts*, *Savitz* and *Laroche* teach Claims 22 and 23.

Applicants accordingly respectfully submit that the claims are patentable over the art of record, and that in lieu of more pertinent prior art that the claims should be allowed.

Respectfully submitted,  
K&L GATES LLP

BY   
Robert W. Connors  
Reg. No. 46,639  
Customer No.: 29200

Dated: April 30, 2009